

Applicant/s: STUART ASHLEY CHRISTOPHER ROBB

Respondent: Minister for Immigration and Citizenship

Tribunal Number: 2026/2997

Tribunal: Senior Member B Cullen

Place: Brisbane

Date: 6 October 2026

Decision: The Tribunal affirms the decision under review.

Senior Member B Cullen

Statement made on 06 October 2026 at 9:41am

Catchwords

MIGRATION – decision of delegate of Minister not to revoke mandatory cancellation of visa – character test – Direction no. 110 – primary and other considerations – protection of Australian community – nature and seriousness of criminal offending – Applicant persistently in family violence - risk to the Australian community should the Applicant commit further offences or engage in other serious conduct – family violence consideration – strength, nature, and duration of ties to Australia – best interests of minor children - expectations of the Australian community – Applicant is a 56 year old citizen of the United States, United Kingdom and Canada – extent of impediments if returned to the United States, United Kingdom or Canada – Non-Revocation Decision is affirmed

Legislation

Administrative Review Tribunal Act 2024 (Cth)

Migration Act 1958 (Cth)

Cases

CRNL v Minister for Immigration, Citizenship and Multicultural Affairs [2023] FCAFC 138
Khalil and Minister for Home Affairs [2019] FCAFC 151

Secondary Materials

Minister for Immigration, Citizenship and Multicultural Affairs (Cth), *Direction No. 110 – Visa refusal and cancellation under section 501 and revocation of a mandatory cancellation of a visa under section 501CA 97* (7 June 2024).

Statement of Reasons

APPLICATION FOR REVIEW

1. This is an application for review of a decision of the Delegate of the Minister (the Respondent) dated 23 June 2026 not to revoke the mandatory cancellation of the Applicant's Five-Year Resident Return (Class BB)(subclass 155) visa (the visa) pursuant to s 501(3A) of the *Migration Act 1958* (Cth) (Act).
2. In this review, the Applicant submits that the Tribunal should be satisfied that there is 'another reason' why the original decision should be revoked under s 501CA(4)(b)(ii) of the Act. The Applicant asks that the Tribunal set aside the 23 June 2026 decision and determine that the cancellation should be revoked.

3. The decision not to revoke the original decision was made on the basis that the Delegate was neither satisfied that the Applicant passed the character test, nor was there another reason why the original decision should be revoked.
4. The Applicant accepts that his criminal history, which includes family violence and offending against police, is serious and weighs materially against revocation. The Applicant's case is that after considering the evidence before it as a whole and following application of *Ministerial Direction No. 110 – Visa refusal and cancellation under s 501 and revocation of a mandatory cancellation of a visa under s 501CA* (Direction No. 110), the Tribunal should find that “*countervailing considerations and the present reduction in risk are sufficient to establish another reason for revocation*”.¹
5. The Applicant appeared before the Tribunal from Immigration Detention on 8 and 9 September 2026 via Microsoft Teams to give evidence and present arguments.
6. Both parties were represented and the Tribunal heard oral evidence from the following witnesses for the Applicant:
 - The Applicant's brother, Clifford Stephen Robb “Clifford”;
 - The Applicant's close friend, Mr Brian Coggin; and
 - Psychologist, Dr Emily Kwok.
7. The Applicant, as well as all the Applicant's witnesses, were cross-examined by the Respondent's solicitor, and the Applicant's counsel was provided with an opportunity to re-examine the witnesses where matters required clarification.
8. At the hearing, the Tribunal provided the parties with an opportunity to respond to matters put to them by the Tribunal, relevant to Direction No. 110, in their oral closing submissions. The parties agreed in relation to the pool of evidence before the Tribunal. The

¹ R1, HB58 at [3]. Hereafter R1 = Respondent's Exhibit 1 (the Hearing Bundle); HB = page within the Hearing Bundle.

Tribunal has marked the Joint Hearing Book (HB) prepared by the Respondent as an exhibit (R1).

9. The decision in this matter was made and provided to the parties on 15 September 2026 with a notation that written reasons would be provided within a reasonable time. These are those written reasons.²

BACKGROUND

Applicant's life

10. The Applicant was born in the United States in 1970 and is presently 56-years of age. The Applicant arrived in Australia, with his parents, as a 7-month-old infant.
11. The Applicant is a citizen of the United States of America, Canada and the United Kingdom.³ The Applicant's parents were born outside Australia – the Applicant's mother was of Hungarian heritage, and his father was of English heritage.⁴ Although the Applicant's parents (now deceased) became Australian citizens, the Applicant did not.
12. The Applicant has a younger brother, Clifford Stephen Robb "Clifford". The Applicant also has 3 step-siblings from his mother's previous marriage – two step-brothers now residing in Canada (from whom he has been estranged for many years) and a step-sister, Emese. Emese has Australian citizenship and has resided in Australia, Canada and Italy.⁵
13. The Applicant has a 10-year-old daughter, Teagan, who resides with her maternal grandmother in a formalised care arrangement. The Applicant does not have parental responsibility for Teagan. The final court orders pertaining to Teagan provided for a minimum of six visits per year between the Applicant and Teagan. These visits ceased when the Applicant was incarcerated, but he would like to be able to visit her and support her if he is released from Immigration Detention.⁶

² *Khalil and Minister for Home Affairs* [2019] FCAFC 151 at [41].

³ R1, S7, HB624–627.

⁴ R1, G38, HB211.

⁵ R1, G18, HB110.

⁶ R1, HB44.

14. The Applicant's parents separated in 1977, and were divorced in 1981. The Applicant's mother worked hard to support her children, working as a legal secretary, following the divorce. As children, the Applicant and his younger brother Clifford helped to supplement family income through paper runs. The Applicant's father provided minimal, sporadic financial support.⁷
15. The Applicant was subjected to sexual abuse from the age of approximately eight or nine, including at school. He was introduced to drugs at an early age and has used illicit substances and alcohol as a form of self-medication throughout his life. The Applicant left school in Year 10.⁸
16. Except for an approximately 10-month period in his twenties, when the Applicant resided in the United Kingdom with his grandmother, he has lived in Australia.⁹ The Applicant has worked in a range of occupations, including driving and removals, hospitality, labouring, sales, and computer-related work. He completed an information technology course in the mid-1990s.¹⁰

Applicant's criminal history

17. Helpfully, the Applicant's Counsel has outlined the Applicant's criminal history¹¹:

The Applicant accepts that his criminal history is lengthy and serious. Attachment A is a Nationally Coordinated Criminal History Check released on 8 January 2026 and run on 12 January 2026. It records disclosed court outcomes in New South Wales from 1992 to 2025. The report itself cautions that its accuracy depends on the information held and released by participating police agencies and that it may not contain every item of police information. These submissions therefore use Attachment A as the disclosed court history and do not infer facts beyond the offence descriptions and outcomes recorded there.

⁷ R1, G38, HB211.

⁸ R1, HB3.

⁹ R1, HB3.

¹⁰ R1, HB4.

¹¹ R1, HB60 – HB62 at [18] – [28].

The earliest disclosed matters are from 15 April 1992 and include possession of a prohibited drug and attempted false pretences, together with two entries described as 'ADMIN PROH DRUG', one of which is recorded as dismissed. The next disclosed matters are in April and July 2000 and include affray, use of an offensive weapon to prevent police investigation, possession of a prohibited weapon without a permit, and goods in personal custody reasonably suspected of being stolen. Attachment A records 12-month terms of imprisonment for the principal April 2000 offences that were suspended upon entry into 12-month bonds.

The 2002-2003 entries include two convictions for possession of a prohibited drug, supply of a prohibited drug greater than the indictable quantity (not cannabis), firing a firearm in or near a public place, contravening an apprehended domestic violence order, repeated intimidation of police officers in the execution of duty, repeated resisting of police officers in the execution of duty, possession of ammunition without authority, and goods in personal custody reasonably suspected of being stolen. The record includes custodial sentences, including a two-year term for the drug-supply offence with a six-month non-parole period, and custodial sentences for the police-related offending.

The disclosed history then records offences in 2004 involving deception and suspected stolen goods; an offence in February 2006 involving suspected stolen goods; a prohibited-weapon offence in December 2011; and, in 2012, a knife offence, resisting or hindering police, possession of a prohibited drug and driving under the influence of alcohol or other drugs. The 2012 driving matter was dealt with by a 12-month bond, six months' disqualification and a rehabilitation condition. Further driving and public-knife matters are recorded in 2016, 2017 and 2018.

On 3 December 2019, Attachment A records four convictions at Gosford Local Court: assault occasioning actual bodily harm (DV)-T2; assault occasioning actual bodily harm-T2; contravene prohibition/restriction in AVO (Domestic); and stalk/intimidate intend fear physical etc harm (domestic)-T2. The report records an aggregate 12-month intensive correction order for those matters, with supervision, community service and alcohol-and-drug abstention conditions.

On 12 October 2022, Attachment A records a further contravention of a prohibition/restriction in an AVO (Domestic), together with prohibited-weapon and restricted-substance offences. The AVO contravention was dealt with by a nine-month community correction order. A separate offence of using a prohibited weapon contrary to a prohibition order was dealt with by a 12-month community correction order.

On 3 February 2023, Attachment A records convictions at Manly Local Court for common assault (DV)-T2 and stalk/intimidate intend fear physical etc harm (domestic)-T2. Each was dealt with by an 18-month community correction order with supervision, including supervision directed particularly to domestic violence and anger management.

Attachment A also records on 10 February 2023 a refusal or failure to submit to breath analysis and a red-light offence. The breath-analysis matter resulted in a fine, a 12-month community correction order, nine months' disqualification and participation in a 24-month alcohol interlock program.

The most recent disclosed history is concentrated in 2025. On 15 January 2025, the Applicant was convicted of driving a motor vehicle during a disqualification period (second or subsequent offence), for which a 12-month community correction order and six months' disqualification were recorded. On 2 May 2025, the Hornsby Local Court record shows that the 2023 domestic-violence matters were called up following breach: the common-assault matter resulted in one month's imprisonment commencing 8 February 2025, and the stalking/intimidation matter resulted in six weeks' imprisonment commencing 8 February 2025 and concluding 21 March 2025. That sentencing description is consistent with paragraph [25] of the delegate's reasons.

Also on 2 May 2025, the Applicant was convicted at Hornsby Local Court of assaulting a police officer in the execution of duty without actual bodily harm and intimidating a police officer in the execution of duty without actual bodily harm, together with using offensive language in or near a public place or school. For the two police offences, the Local Court imposed an aggregate nine-month term commencing 8 February 2025. Attachment A records that a severity appeal was

lodged. On 28 May 2025, the Downing Centre District Court allowed the appeal in part and imposed an aggregate nine-month term with a five-month non-parole period, with indicative terms recorded as four months and six months for the two police offences. The convictions were not recorded as overturned.

On 19 May 2025, Attachment A records further convictions for hindering or resisting a police officer in the execution of duty, entering prescribed premises of a person without lawful excuse, and driving with an illicit drug present in blood (second or subsequent offence). The first two matters attracted fines; the drug-driving matter attracted a fine and 12 months' driver disqualification.

ISSUES

18. The issues before the Tribunal are:

- (a) whether the Applicant passes the character test, as defined by s 501(6) of the Migration Act; and
- (b) if the Applicant does not pass the character test, whether the Tribunal is satisfied that there is 'another reason' why the Cancellation Decision should be revoked.

RELEVANT LEGISLATION

Does the applicant pass the character test?

19. Section 501CA of the Act provides that:

*(1) This section applies if the Minister makes a decision (the **original decision**) under subsection 501(3A) (person serving sentence of imprisonment) to cancel a visa that has been granted to a person.*

...

(4) The Minister may revoke the original decision if:

- (a) the person makes representations in accordance with the invitation; and*
- (b) the Minister is satisfied:*
 - (i) that the person passes the character test (as defined by section 501); or*
 - (ii) that there is another reason why the original decision should be revoked.*

20. The character test is defined in s 501(6) of the Migration Act. Section 501(6)(a) of the Migration Act provides that a person does not pass the character test if they have a 'substantial criminal record', as defined by s 501(7).
21. Relevant to the Applicant's case, he has a 'substantial criminal record' in accordance with s 501(7)(c) of the Act because he has been '*sentenced to a term of imprisonment of 12 months or more*'. The Applicant's Counsel accepts that his criminal history is lengthy and serious, and that he does not pass the character test.¹²
22. The Tribunal finds that the Applicant does not pass the character test by virtue of s 501(7)(c) of the Act.

DIRECTION No. 110

23. As the Tribunal is not satisfied that the Applicant passes the character test, the Tribunal must now determine, having regard to the primary and other considerations contained within Direction No. 110, whether there is 'another reason' why the Cancellation Decision should be revoked. The statutory power to revoke will only be enlivened if there is 'another reason' why the Cancellation Decision should be revoked.¹³
24. The Tribunal is required to form a state of satisfaction as to whether there is 'another reason' why the Cancellation Decision should be revoked, reasonably, and in accordance with the applicable law.
25. Under s 499 of the Act, the Minister may give written directions to a person or body exercising powers under the Act if those directions are about the performance of those functions or the exercise of those powers. By reason of s 499(2A) of the Act, the Tribunal must comply with written directions about the performance of its functions or the exercise of those powers which are given by the Minister pursuant to s 499(1) of the Act.
26. In exercising the power under s 501CA(4), the Tribunal must have regard to the primary and other considerations set out in Direction No. 110 where relevant to the decision.¹⁴

¹² R1, HB58 at [2]; R1, HB58 at [18].

¹³ Migration Act s 501CA(4)(b)(ii).

¹⁴ Direction No. 110 at [6].

27. Paragraph 5.2 of the Direction sets out the principles which provide the framework within which the Tribunal should approach its task of deciding whether to revoke the original decision under s 501CA(4).
28. Paragraph 6 of the Direction provides that the Tribunal, informed by the principles in paragraph 5.2, must take into account the considerations identified in paragraph 8 (the primary considerations) and paragraph 9 (the other considerations) of the Direction, where relevant to the decision.
29. Paragraph 7 of the Direction directs the Tribunal, when taking the relevant considerations into account, as follows:
- (1) In applying the considerations (both primary and other), information and evidence from independent and authoritative sources should be given appropriate weight.
 - (2) The primary consideration at 8.1 below (protection of the Australian community) is generally to be given greater weight than other primary considerations. Otherwise, primary considerations should generally be given greater weight than the other considerations.
 - (3) One or more primary considerations may outweigh other primary considerations.

Primary considerations

30. Paragraph 8 of the Direction relevantly provides that in making a decision under s 501CA(4) the following are the primary considerations:
- (1) protection of the Australian community from criminal or other serious conduct;
 - (2) whether the conduct engaged in constituted family violence;
 - (3) the strength, nature and duration of ties to Australia;
 - (4) the best interests of minor children in Australia;
 - (5) expectations of the Australian community.

8.1. Protection of the Australian community

31. Paragraph 8.1 of the Direction requires the Tribunal to keep in mind that the safety of the Australian community is the highest priority of the Australian Government. To that end, the Government is committed to protecting the Australian community from harm as a result of criminal activity or other serious conduct by non-citizens. In this respect, the Tribunal should

have particular regard to the principle that entering or remaining in Australia is a privilege that Australia confers on non-citizens in the expectation that they are, and have been, law abiding, will respect important institutions, and will not cause or threaten harm to individuals or the Australian community.

32. The Tribunal should also give consideration to:

- (a) the nature and seriousness of the applicant's¹⁵ conduct to date; and
- (b) the risk to the Australian community, should the applicant commit further offences or engage in other serious conduct.

Nature and seriousness of the applicant's conduct to date

33. Under paragraph 8.1.1 of the Direction, in considering the nature and seriousness of the applicants' criminal offending or other conduct to date, the Tribunal must have regard to the following:

- (a) without limiting the range of conduct that may be considered very serious, the types of crimes or conduct described below are viewed very seriously by the Australian Government and the Australian community:
 - (i) violent and/or sexual crimes;
 - (ii) crimes of a violent and/or sexual nature against women or children, regardless of the sentence imposed;
 - (iii) acts of family violence, regardless of whether there is a conviction for an offence or a sentence imposed;
- (b) without limiting the range of conduct that may be considered serious, the types of crimes or conduct described below are considered by the Australian Government and the Australian community to be serious:

¹⁵ The Direction use the terms 'non-citizen' or 'non-citizens' rather than 'applicant'. In describing the content of the Direction, where suitable, this decision has used the term 'applicant' and otherwise retained the term 'non-citizen' or 'non-citizens' as originally appearing in the Direction.

- (i) causing a person to enter into a being party to a forced marriage (other than being a victim), regardless of whether there is a conviction for an offence or a sentence imposed;
 - (ii) crimes committed against vulnerable members of the community (such as the elderly and the disabled), or government representatives or officials due to the position they hold, or in the performance of their duties;
 - (iii) any conduct that forms the basis for a finding that a non-citizen does not pass an aspect of the character test that is dependant upon the decision-maker's opinion (for example, section 501(6)(c));
 - (iv) where the applicant is in Australia, a crime committed while the applicant was in immigration detention, during an escape from immigration detention, or after the applicant escaped from immigration detention, but before the applicant was taken into immigration detention again, or an offence against section 197 of the Act, which prohibits escape from immigration detention;
- (c) with the exception of the crimes or conduct mention in subparagraph (a)(ii) or (b)(i) above, the sentence imposed by the courts for a crime or crimes;
- (d) the impact of the offending on any victims of offending or other conduct and their family, where information in this regard is available and the applicant whose visa is being considered for cancellation has been afforded procedural fairness;
- (e) the frequency of the applicant's offending and/or whether there is any trend of increasing seriousness;
- (f) the cumulative effect of repeated offending;
- (g) whether the applicant has provided false or misleading information to the Department, including by not disclosing prior criminal offending;
- (h) whether the applicant has re-offended since being formally warned, or since otherwise being made aware, in writing, about the consequences of further offending in terms of the applicant's migration status (noting that the absence of a warning should not be considered to be in the applicant's favour);

- (i) where the offence or conduct was committed in another country, whether that offence or conduct is classified as an offence in Australia.

CONSIDERATION OF REVOCATION

34. The Applicant has told the Tribunal that he accepts that his criminal history, which includes family violence and offending against police, is serious and weighs materially against revocation. The Applicant's case is that, "on the evidence now before the Tribunal and after applying Direction No. 110 as a whole, the countervailing considerations and the present reduction in risk are sufficient to establish another reason for revocation".¹⁶ The Applicant submits that the strength of his personal history and connection to Australia, the best interests of his 10-year-old daughter, current rehabilitation and release plan, reduced risk of reoffending, and the extent of the impediments he would face if removed, weigh in favour of revocation of the Cancellation Decision and outweigh any considerations opposing it.
35. The Respondent contends that the protection of the Australian community consideration, along with the family violence consideration and the expectations of the Australian community consideration, decisively outweigh any or all of the considerations weighing in favour of revocation.
36. The Respondent contends that the Applicant has been convicted of violent crimes, crimes of a violent nature against women, and has committed acts of family violence. The Respondent submits that irrespective of whether a conviction or sentence has been imposed, acts of violence and family violence are viewed very seriously by the Australian government and community in accordance with paragraph 8.1.1(1)(a). The Respondent has listed the relevant crimes or conduct in Annexure A to the Minister's Statement of Facts Issues and Contentions.¹⁷
37. The Respondent further contends that the Applicant has committed offences against *'government representatives or officials due to the position they hold, or in the performance of their duties'* in accordance with paragraph 8.1.1(1)(b)(ii). The Respondent

¹⁶ R1, HB58 at [3].

¹⁷ R1, HB1044 – 1045.

has listed the relevant offences in Annexure B to the Respondent's Statement of Facts, Issues, and Contentions.¹⁸

Nature and seriousness of the conduct

38. The Tribunal must consider the nature and seriousness of the Applicant's criminal offending and other conduct to date by having regard to specific types of crimes or conduct which are 'viewed very seriously' by the Australian Government and the Australian community. Direction No. 110 also provides that certain other crimes or conduct are considered to be serious. While there are categories of conduct to be considered to be very serious or serious, it does not limit the range of conduct that may be so regarded.
39. As set out by the Applicant's counsel and traversed above, the Applicant's criminal history is extensive and spans the vast proportion of his adult life. The earliest disclosed matters date back to 1992 when the Applicant was 21-years of age (the Applicant is now 56-years of age).¹⁹ The Applicant was first convicted of an offence in 2000.²⁰
40. The Applicant submits the following in relation to the consideration of protection of the Australian Community²¹:

The Applicant accepts that this limb weighs strongly against revocation. Attachment A confirms a history extending from 1992 to 2025 that includes violence, domestic-violence offending and order breaches, drug and alcohol offending, weapons offending, driving offending, and repeated offending against police. It also confirms that the Applicant has reoffended after custodial and community-based dispositions containing supervision, rehabilitation, abstinence and domestic-violence/anger-management conditions. The cumulative effect and repeated non-compliance with court orders are properly adverse.

¹⁸ R1, HB1046.

¹⁹ R1, G6, HB150.

²⁰ R1, G6, HB149.

²¹ R1, HB66 at [51] – [54].

The Applicant nevertheless relies on the delegate's own findings that are relevant to calibration of seriousness. In relation to family violence, the delegate found that the offending was not frequent and that there was no trend of increasing seriousness, although repeated conduct had a cumulative effect. The delegate ultimately characterised the family violence as 'very serious' but towards the middle of the range of such conduct.

The Applicant does not submit that the sentences imposed, including the May 2025 custodial sentences, make the offending minor. The 28 May 2025 District Court result records that the severity appeal concerning the two police offences was allowed in part, but an aggregate nine-month term remained, with a five-month non-parole period. That outcome does not diminish the seriousness of offending against police; it is relevant only to accurately recording the sentencing history. The proper conclusion is that the conduct is serious and weighty, while recognising that the Direction still requires an individual assessment of nature, seriousness and future risk rather than treating every entry in a long record as being at the highest level of seriousness.

41. Relevant to this consideration, on 3 December 2019, the Applicant was convicted and sentenced²² in the Gosford Local Court to an aggregate 12-month Intensive Correction Order (ICO) for the following offences:
- 'assault occasioning actual bodily harm (DV)-T2';
 - 'assault occasioning actual bodily harm';
 - 'contravene prohibition/restriction in AVO (Domestic)'; and
 - 'stalk/intimidate intend fear physical etc harm (domestic)-T2'.
42. The offending that led to the Applicant's 3 December 2019 ICO was against his then partner, "KK". The sentencing remarks²³ before the Tribunal reveal that the Applicant

²² R1, G6, HB145 – HB147.

²³ R1, G8, HB162 – HB163.

entered into a physical altercation with KK outside a Surf Life Saving Club, where he dragged and kicked her on the pavement causing injuries to her face and hands. He then:

Attended at the residence of the victim and began banging on the front door yelling and screaming, demanding for an opal card telling you that you hated her and ultimately clearly again an incident occurred whereby the victim was effectively frightened by what occurred, intimidated by your conduct. You were seen to be standing at the front door of her residence and she was on the ground cowering. You were standing there with a smashed bottle of alcohol that was evidence on the floor but had been smashed during the course of the incident.

The second set of facts that give rise to the assault occasioning actual bodily harm relate to matters in March at which time you picked up something that looked like a torch and struck the victim in the forehead causing her pain and dizziness. Police observed slight swelling to the centre of her forehead.

43. The Applicant's 12 October 2022 conviction for offences included 'Contravene prohibition/restriction in AVO (Domestic)'²⁴, which resulted in a nine-month Community Correction Order, involved the Applicant offending against another partner, "MJ". The NSW Police Records indicate that MJ had an enforceable Apprehended Domestic Violence Order in place, naming her as the Person in Need of Protection. The Applicant had approached MJ at her place of work, which was captured on CCTV, in contravention of the Apprehended Domestic Violence Order.²⁵
44. The Applicant had claimed that his arrival at MJ's place of work was coincidental, and that he was merely trying to get in from the rain, as he was on an electric scooter not meant to be ridden in the rain. The Applicant had claimed that MJ normally worked at a different branch of the same establishment. While the information from NSW police indicates that the Applicant knocked on the door of the business²⁶, in his cross-examination before the Tribunal, the Applicant said he does not recall doing so. The Applicant said that he accepted that there was a breach by him of the Apprehended Domestic Violence Order.

²⁴ R1, G6, HB145.

²⁵ R1, G13, HB178 – HB179.

²⁶ R1, G13, HB178 – HB179; R1, HB232.

45. The Applicant was convicted of further offending against MJ on 3 February 2023 in the Local Court of New South Wales at Manly.²⁷ The information from NSW Police before the Tribunal records convictions for 'Common assault (DV) and Stalk/intimidate intend fear physical etc harm (domestic)' arising from the following events:

The Victim lives in a two story three bedroom unit where the Victims bedroom is situated upstairs.

On Friday the 6th of May 2022, shortly after 6:30 pm The Victim and the Accused were in the Victims bedroom when the Victim has requested that the Accused leave her house as she had a headache and the accused was intoxicated.

The Accused not taking this request well has moved close to the victim getting within close proximity to the Victims face and said, "You're fucking stupid." Due to the accused being right in the face of the victim as well as his aggressive was of speaking to her the Victim had a genuine fear she was about to be assaulted and has subsequently pushed the Accused out of her personal space with the intention to create a safe distance between them. After being pushed away the Accused has said to the Victim "Don't touch me I'll kill your brother or kill your mother." This has made the Victim feel immediate fear that the Accused would carry out his threat and harm her family.

The Accused has again approached the victim and using both hands has pushed the Victim in the chest causing her lose balance and fall backwards into the door frame and continue to fall landing on her bottom. The Victim stood up before the Accused again pushed the Victim in the chest with a similar motion causing the Victim to take a couple of steps back however she kept her balance.

The Victim and the Accused have made their way downstairs into the kitchen where [redacted] stood in between the Victim and the Accused in an attempt to de escalate the situation. However, the have continued to argue and the Accused has punched the Victim in the left side of the chin with a closed fist causing her to feel pain shortly after.

²⁷ G6, 52; G14, 87-88.

As a result of the Accused's behaviour the Victim called Manly Police station where she began to speak with Police, whilst the Victim did this the Accused has attempted to take the Victims mobile phone however was not able to. Whilst attempting to take the mobile phone the Accused said "Get off the phone to those dogs." The Accused has again quickly grabbed at the Victims mobile phone where he managed to take the phone from the Victim. The Accused has pushed the Victim in the chest again causing her to fall on the ground once more.

The Accused has left the Victims unit and began to walk towards the exit of the unit block, where the Victim has again approached the Accused requesting the Accused to return her mobile phone. The Victim attempted to take her phone back from the Accused where the Accused has pushed the Victim in the chest causing her to fall and land on her knees. As a result of this fall the Victim has scraped both her knees and her left elbow causing blood to form.

The Accused has left the location with the mobile phone and made no attempt to return the mobile phone to the Victim.

46. On 2 May 2025, the applicant was convicted and sentenced²⁸ in the Hornsby Local Court to an aggregate 9-month term of imprisonment with a non-parole period of six months for the following offences:
- 'assault police officer in execution of duty w/o abh-T2'; and
 - 'intimidate police officer in execution of duty w/o abh-T2'.
47. On 28 May 2025, the Downing Centre District Court allowed an appeal in part and imposed an aggregate nine-month term with a five-month non-parole period, with indicative terms recorded as four months and six months for the two police offences.²⁹
48. The transcript from the 2 May 2025 hearing reflects that the basis of the assault on the female police officer was two fold – (1) the applicant attempted to reach for the officer's weapon; and (2) the applicant threw a cup of water in the officer's face.³⁰ The conduct was

²⁸ (G6, 51).

²⁹ R1, G6, HB144.

³⁰ G7, 61-62.

described by Magistrate Williams as “concerning to the Court” given that the matters involved police officers.³¹

49. The agreed facts indicate that the charges arose while two police officers were investigating an unrelated matter. The Applicant approached one of the police officers and said *‘Do you have guns, can I’* and reached with his left hand towards an officer’s firearm³² The police officer then pushed the Applicant away, but he continued to attempt to make physical contact with her before being check drilled to the ground to create safe distance.³³ While in police custody, the Applicant continued to yell and swear using offensive language despite being warned multiple times by police, including *‘You’re a fat fuckin ugly lesbian bitch’*.³⁴ The Applicant told a second police officer *‘I’ll find where you live, and your family you fuckwit’*.³⁵ (S5, 466).
50. The Applicant submits that the Tribunal should be careful in considering the conduct set out in Annexures A and Annexure B, and that it should carefully assess distinctions between convictions and sentencing findings, dismissed or withdrawn charges, untested police allegations, historical risk assessments, alongside more recent evidence of the Applicant’s treatment and release supports.
51. The Applicant makes the point that the Respondent’s Annexure A includes both matters that the Applicant has been convicted of (including against two former partners), as well as unproven criminal allegations involving the applicant against a number of female persons (specifically, three former partners). Although the Applicant’s Counsel accepts that the dismissal of charges in relation to the unproven allegations does not automatically exclude them from the Tribunal’s consideration, he submits that the relevant police reports should be assessed by the Tribunal for cogency and reliability, given the serious nature of the allegations.

³¹ R1, G7, HB159.

³² R1, S5, HB853.

³³ R1, S5, HB854.

³⁴ R1, S5, HB854.

³⁵ R1, S5, HB854.

52. The Tribunal accepts that it must exercise care in considering police material not tested in court and is cognisant that not all conduct listed in the Respondent's Annexure A has been tested in a court. Nevertheless, it is the case that the Applicant has been convicted of violent crimes, acts of family violence, and offending against police, following the testing in court of the facts alleged by police, as set o. The Nationally Coordinated Criminal History Check before the Tribunal records disclosed court outcomes in New South Wales for the Applicant, from 1992 to 2025.³⁶
53. During the hearing, the Respondent's Counsel carefully and methodically put each of the police reports that deal with unproven allegations to the Applicant. The Applicant's Counsel acknowledged in his closing submissions that the Applicant had been afforded procedural fairness in this respect.
54. The Applicant was largely unable to recall the matters put to him in relation to both proven the unproven allegations. The Tribunal does not consider it necessary to include the full set of exchanges between the Applicant and the Respondent's solicitor in these reasons, but the following exchanges illustrate the general nature of the Applicant's responses.

- **Exchange One relating to 3 December 2019 ICO:**

Respondent's solicitor: *So just further in relation to that, that those offences, the sentencing judge goes on and says on a later date, So after the incident at the Surf Life Saving Club, you attended your partner's residence and you're banging on the front door, yelling and screaming, demanding for an Opal card and telling her that you hated her, causing her to be effectively frightened by what occurred, intimidated by your conduct. And then you were seen standing at the front door of her residence and she was on the ground cowering. Is that what took place in relation to those offences?*

Applicant: *That that's what. Yeah.*

Respondent's solicitor: *What was alleged?*

Applicant: *Yes.*

³⁶ R1, G6, HB143 – HB150.

Respondent's solicitor: *And then on a separate date, you picked up something that looked like a torch and struck the victim in the forehead, causing her pain and dizziness.*

Applicant: *I'm. I'm not going to dispute that, but I definitely. I don't remember.*

- **Exchange Two relating to 2 May 2025 conviction assault/intimidate police officer:**

Respondent's solicitor: *OK, So just in relation to those offences, in relation to assault and intimidate police, the agreed facts say that two officers were investigating an unrelated matter and you approached one of them and said, do you have a gun? And then you reached with your left hand towards their firearm.*

Applicant: *It says, yeah, that I think those facts were supposed to be taken out of the court case. But my memory's not the greatest because I never, I never touched the guns or anything. I I barely remembered, barely can remember that night. I just know that I, I was there because I had a broken leg. I just broke it that night and I was unable to make it home. I was highly intoxicated. So I can barely remember.*

- **Exchange Three relating to 12 October 2022 conviction for contravening AVO (Domestic):**

Respondent's solicitor: *So on the 12th of October 2022 you were convicted of contravening an AVO and this related to you approaching your former partners workplace. Do you remember that?*

Applicant: *Yes, I do.*

Respondent's solicitor: *Do you agree with that?*

Applicant: *That was that action was in breach of the AVO. Yeah, it's it was a definite breach. I didn't know that my partner was working at that particular branch because she worked at Winston Blinds, which had branches everywhere. And she normally worked at Mossman. And the reason I pulled up to that place at the time is it started pouring with rain. And also I'm on an electric scooter, which it's not meant to be ridden in the rain, but yet with it. Technically, that was a breach, yes.*

Respondent's solicitor: *So the the facts as they're recorded by the police are in the hearing bundle on page 178. And it says there that at about 4:30 PM on Friday the 9th of September 2022, the victim was at her place of employment being Winston Blinds, as you say. The victim was on the phone to a customer when she heard a knock at the business's front door. The victim looked up in the direction of the front door when she'd noticed the the accused standing outside. Do you remember that? Do you remember knocking on the door?*

Applicant: *I don't recall knocking on the door, but I remember pulling up there because it started to pour with rain a block away, literally bucketing down, which was the only reason that I actually went there that day. But I accept that was a breach because she was there. I'm not disputing.*

55. In the case of conduct contained on the Respondent's Annexure A that has not been tested in court, the Tribunal has given the conduct that has not been tested in court less weight than the Applicant's convictions in its overall consideration as the nature and seriousness of the Applicant's conduct to date.
56. The Tribunal observes that during the Applicant's cross-examination, consistent with the above exchanges, there were numerous instances recorded where the Applicant has agreed to the fact of conviction, or the fact of a charge, but then cannot recall the events in question with any particularity. Given the Applicant's overall lack of memory, contrasted with the contemporaneous nature of the NSW Police information to the events that led to the applicant being charged or convicted, the Tribunal prefers the version of events recorded by NSW police.
57. The Applicant accepts that his proven family violence offending against two former partners and the 2024 offences against police are serious.³⁷ The Tribunal has had regard to the sentencing comments of Magistrate Williams, who concluded that the Applicant's offending against police was in the 'mid to lesser range of objective seriousness'.³⁸

³⁷ R1, HB77 at [7].

³⁸ R1, G7, HB159.

58. The Tribunal has placed significant weight on the frequency of the Applicant's offending. It is the case that the Applicant has been convicted of 49 offences over a 25-year period.³⁹
59. There have been some periods during which the Applicant has not been convicted of an offence (2019 – 2022 and 2006 – 2011).⁴⁰ Considering these periods but also observing the time in which the offending has occurred overall (commencing with the Applicant's first conviction in 2000), the Tribunal's view is that there has been a pattern of frequency across the time of the Applicant's offending.⁴¹
60. During this time, the Applicant has been sentenced to terms of imprisonment (intensive correction and suspended terms). The Tribunal accepts the Respondent's submissions that a term of imprisonment is the last resort in the sentencing hierarchy, demonstrating that the crimes the Applicant has been convicted of are serious.⁴² In his lengthy period of offending, the Applicant has also been fined, and received court outcomes resulting in Good Behaviour Bonds and Community Correction Orders.
61. The cumulative impact of the Applicant's persistent offending is very significant. This offending has drawn significantly upon community resources, including policing and court services, and has resulted in harm to members of the community, including to persons with whom the Applicant has been in intimate domestic relationships. The Applicant has had the opportunity to address his offending, and the drug, alcohol, and trauma factors that have been contributors to his offending, at multiple junctures in the past. Yet, the Applicant has continued to offend for a very lengthy period commencing in 2000.
62. The Tribunal considers that overall, the Applicant's conduct is very serious and weighs very strongly in favour of non-revocation of the original decision.

Risk to the Australian community should the applicant commit further offences or engage in other serious conduct

63. Under paragraph 8.1.2 of the Direction the Tribunal must assess the risk posed by the applicant to the Australian community should the applicant commit further offences or engage in other serious conduct, and should have regard to the Government's view that

³⁹ R1, G6, HB143 – HB150, Direction No. 110 paragraph 8.1.1(1)(e).

⁴⁰ R1, G6, HB145 – HB147.

⁴¹ Direction No. 110, paragraph 8.1.1(1)(e).

⁴² Direction No. 110, paragraph 8.1.1(1)(c).

the Australian community's tolerance for any risk of future harm becomes lower as the seriousness of the potential harm increases, and that some conduct and the harm that would be caused, if it were to be repeated, is so serious that any risk that it may be repeated may be unacceptable.

64. In assessing the risk that may be posed by the applicant to the Australian community, the Tribunal must have regard to, cumulatively:
- (a) the nature of the harm to individuals or the Australian community should the applicant engage in further criminal or other serious conduct;
 - (b) the likelihood of the applicant engaging in further criminal or other serious conduct, taking into account any information and evidence on the risk of re-offending, any evidence of rehabilitation achieved by the time of the decision, giving weight to time spent in the community since the applicant's most recent offence (noting that decisions should not be delayed in order for rehabilitative courses to be undertaken).
65. The Respondent contends that the harm that could be caused from future or similar offending by the Applicant is so serious that even countervailing considerations are insufficient to justify revoking the original decision. The Applicant's case is that he has now taken steps to address his past offending, addictions, and childhood trauma, and that his proposed release plan is now directed to a prevention of returning to the problems of his past.
66. Specifically, the Applicant says that the significance of the evidence before the Tribunal is that it:
- ...identifies concrete protective factors that were absent or insufficient during previous relapses: stable accommodation, a committed family support person, separation from the recent housing environment, structured substance treatment, continuing mental health treatment and a child-focused reason to maintain stability.⁴³

⁴³ R1, HB64 at [38].

67. The Applicant's illicit substance abuse history (which has included cannabis, amphetamines, and cocaine), and alcohol abuse history, began when he was around twelve years of age.⁴⁴ The Applicant continued use of illicit substances and alcohol on a regular basis, until the time of his most recent arrest in 2024. Dr Emily Kwok, in her 11 August 2026 Report, records that the Applicant stated that the Applicant has not used drugs or alcohol since his 2024 arrest, during which time he has been in prison followed by immigration detention.
68. The Applicant told Dr Kwok that he recognised the need to establish a different social network if he were to be released, as his previous social network consisted largely of peers who were themselves substance abusers. The Applicant was hoping to participate in Odyssey House's residential program in Sydney. Odyssey House records further indicate that the Applicant engaged in its non-residential program and attended four relapse-prevention groups addressing barriers to recovery, protective factors, relapse and coping with setbacks.⁴⁵
69. The Applicant says that he will not return to the Sydney housing and social environment associated with his recent grief, drinking and conflict. He proposes direct entry into structured rehabilitation if accepted.
70. At hearing, the Applicant told the Tribunal that Odyssey House had assessed him as unsuitable for its program, so this would not be an available option. The Applicant's evidence was that the Odyssey House program was deemed unsuitable because of his past trauma, and that they recommended a 9-month intensive program called Grow. There is no evidence before the Tribunal that the Applicant will be accepted into Grow's residential program. As such, there is no evidence before the Tribunal indicating that any residential program will be available to the Applicant on release.
71. Between January and March of 2026, the Applicant completed Odyssey House courses addressing: Understanding Drug and Alcohol Abuse; Stress Management; Understanding Addictions; Confidence Building; Depression Management; Anger Management Techniques; Building Self Esteem; and Conflict Resolution. Each of

⁴⁴ R1, HB20 – HB21.

⁴⁵ R1, G28, HB266.

these courses required between 3 and 10 contact hours.⁴⁶ The Applicant also completed two units on Self Esteem and Anger through the Salvation Army's Position Lifestyle Program, prior to his release from custody to immigration detention.⁴⁷

72. The Respondent contends that the Tribunal should be guarded in respect of any contention by the Applicant that he will no longer reoffend because he is now abstinent from drugs and alcohol and has undertaken courses or programs to assist him in abstaining from drugs or alcohol. The Respondent points to several factors, in support of its contention that the risk of the Applicant relapsing and reoffending is very high. These include the following:

- The Applicant has previously participated in drug rehabilitation, drug and alcohol counselling and therapy (G34, 196).⁴⁸
- The Applicant was using drugs while participating in the MERIT Program in 2025.⁴⁹
- The Applicant has previously been subject to an abstinence condition attached to the aggregate Intensive Correction Order for the index offences yet has reoffended.⁵⁰
- The Applicant's most recent period of abstinence from drugs and alcohol has occurred while in custody or immigration detention, which are controlled environments. The Applicant's ability to maintain abstinence has not been tested in the community.

73. There is also evidence before the Tribunal that the Applicant 'point blank refused' to participate in the EQUIPS DFV program in September 2023.⁵¹ The Applicant's evidence is that he now *"recognises the connection between [his] substance abuse and offending, I*

⁴⁶ R1, G28, HB257 - HB

⁴⁷ R1, G29, HB265.

⁴⁸ R1, G35, HB292; R1, G34, HB289.

⁴⁹ R1, G7, HB156; R1, S1, S1, HB394.

⁵⁰ R1, G6, HB145 – HB147; R1, S4, HB334 – HB724.

⁵¹ R1, S4, HB709.

have begun participating in treatment, I am prepared to undertake more intensive work, and I have support available to me in Australia".⁵²

74. In relation to the risk of the Applicant reoffending, the most recent Sentencing Assessment Report before the Tribunal, dated 17 March 2025, says the following⁵³:

It appears that [the Applicant's] unresolved alcohol addiction, complex mental health problems and past trauma, are the underlying factors of his offending and unstable and pro-criminal lifestyle.

[The Applicant] reported to be highly intoxicated from alcohol in the lead to the offence and although confirming the police facts, he tended to minimise and justify his actions and present himself as a victim of the circumstances.

[The Applicant] had participated in the MERIT program for five out of six scheduled sessions but presented 'with low motivation to undertake therapeutic work'.

[The Applicant] expressed negative and hostile attitudes towards the police and law authorities and tended to blame the police for his predicament and for targeting him.

75. The Report writer concluded that the Applicant has minimal insight into his offending behaviour, and he was assessed to have a Med-High risk of reoffending according to the Level of Service Inventory – Revised (LSI-R).⁵⁴
76. Dr Kylie Kwok, Clinical and Forensic Psychologist, prepared a psychological assessment for the Applicant, for the purposes of the Applicant's hearing. Dr Kwok appeared before the Tribunal, to give evidence relating to her report. In the 11 August 2026 report, Dr Kwok measured the Applicant's risk of reoffending using the Level of Service/Case Management Inventory (LS/CMI) tool. Dr Kwok says the following specifically in relation to the risk of the Applicant reoffending:

⁵² R1, HB6 at [50].

⁵³ R1, S4, HB631.

⁵⁴ R1, S4, HB631.

*[The Applicant] obtained a total score of 20 out of 43, placing him within the High Risk/Need category, at the lower end of the range 920-29). The principal risk factors identified included his extensive criminal history, previous incarceration and previous breaches of court orders. [The Applicant] also has a substantial history of illicit drug and alcohol use, and his substance use has been associated with a range of adverse consequences, including problems with the law, difficulties in intimate relationships, health problems and disruption to employment. Although he currently reports abstinence from substances, this has occurred while he has been in the controlled environments of prison and immigration detention. His ability to remain abstinent in the community is yet to be tested.*⁵⁵

77. Dr Kwok also assessed the Applicant for the risk of further domestic violence using the Ontario Domestic Assault Risk Assessment (ODARA). The applicant scored 6 out of 7 on the ODARA, representing a 53% of likelihood of a further assault against an intimate partners (or in some cases a future intimate partner) coming to the attention of police within an average follow-up period of approximately five years.⁵⁶
78. Dr Kwok observed that the Applicant's score does not "*independently establish his current level of risk without consideration of changes in relevant risk and protective factors*". Dr Kwok observes that the "*sustainability of these changes following release will be important considerations in determining his future risk*".⁵⁷
79. Dr Kwok acknowledges that the presence of family support, current separation from criminogenic relations and substance use, willingness to engage in treatment, and emerging recognition of the problems associated with his previous behaviour represent potentially important strengths. She further indicates that the extent to which these protective factors translate into reduced recidivism risk will depend on whether those systems can be maintained.⁵⁸

⁵⁵ R1, HB29.

⁵⁶ R1, HB30 at [77] – [78].

⁵⁷ R1, HB31 at [79] – [80].

⁵⁸ R1, HB30-HB31 at [73] – [75] and [79] – [80].

80. The Tribunal observes that Dr Kwok has described the Applicant's insight as "*emerging*". When given the opportunity at the hearing to explain the insight that he now has into his offending, and what would be different in future, the Applicant told the Tribunal that he now journals, and uses positive mindset tools, and is trying to surround himself with positive influences.
81. The Tribunal is concerned that the Applicant's "*emerging*" insight has evolved whilst he has been in a custodial or controlled setting. The preponderance of evidence before the Tribunal in relation to his willingness to participate in therapeutic programs indicates reluctance on the part of the Applicant.
82. Dr Kwok considered the Applicant's current relationship status as single to be a relevant factor that may reduce his risk of reoffending.⁵⁹ The Applicant told the Tribunal that he intended to remain single. The Tribunal observes that the Applicant is currently in immigration detention and would have limited opportunities to meet prospective partners. The Tribunal does not consider the Applicant's current single status to be a reliable protective factor that would mitigate against the potential of his reoffending, or his engaging in further acts of domestic violence were he to again partner.
83. Further, the evidence presently available to the Tribunal is that the Applicant has not been accepted into a structured rehabilitation program. The Applicant, in his statement, has said that he "would prefer to go directly into structured rehabilitation on release because I recognise that moving from a long period of prison and immigration detention straight back onto the community will be difficult. I need structure, counselling, assistance with housing and practical support while I adjust."
84. If that option does not become available to him, and the Tribunal cannot determine whether it will or won't be possible, the Applicant's housing options consist of residing with his brother Clifford, or living with a long-term friend, Brian Coggin (Brian).
85. Clifford is a 54-year-old man who is single, with no children, except for his "fur babies". He has worked professionally in financial services, as a Senior Business Analyst, since

⁵⁹ R1, HB29 – HB30 at [73].

November of 1999. Following the Applicant's recent challenges, Clifford has ceased work to devote time to assisting his brother. Clifford is prepared to house the Applicant, and assist him with navigating housing and accommodation, appointments, and engaging with mental health and rehabilitation services. He further says that he is willing to provide financial assistance.⁶⁰

86. Clifford gave evidence at the Tribunal hearing. The Tribunal formed the impression that Clifford is genuine in wanting to assist the Applicant. Clifford is distressed at the prospect that the Applicant may need to depart Australia, and described with sincerity the financial and emotional cost that these proceedings have had on him.
87. In the past, the Applicant has asserted that Clifford (and his now deceased mother) would be protective factors for him if he was released into the community, and yet he has reoffended.⁶¹
88. Similarly, the Applicant has expressed a desire to be the best version of himself for his daughter, and to not reoffend, but has then gone on to reoffend.⁶²
89. Magistrate Olischlager warned the Applicant when sentencing him in 2019⁶³:

It is also clear that you are at a stage in life where you have got a lot to live for in terms of having a young daughter, I understood at three and a half years of age. You are really at the point where if you do not take the opportunity to change your ways you will find yourself incarcerated into the future for lengthy period of time and you will miss the real opportunity to have any involvement in her growth as a child at these formative years.

90. The Applicant has engaged in further offending, and the Tribunal observes that, in the past, the Applicant's relationship with his brother and daughter have not been protective factors that precluded his engaging in further offending. This, in the Tribunal's view, is concerning

⁶⁰ R1, HB10 – HB16.

⁶¹ R1, G34, HB285.

⁶² R1, S2, HB413.

⁶³ R1, G8, HB164.

as the Applicant's past conduct is a strong indicator of potential future risk of offending. Although the Tribunal accepts that the Applicant has not previously faced visa cancellation, there have been no protective factors (including his family) that have been effective in preventing his repeated reoffending in the past 26-years of the Applicant's offending history.

91. It is also the case that, since 2019, the Applicant has been on notice that visa cancellation was a possible consequence of his offending. The Applicant, in a letter addressed to the Gosford Local Court, referred to the possibility that if he received a sentence in excess of 12-months, that he could be "*deported to the USA*" despite having come to Australia as an infant.⁶⁴ This knowledge was not a sufficient deterrent to prevent the Applicant from reoffending.
92. While the Tribunal accepts that Clifford is a loving and well-intentioned brother, it observes that the Applicant's offending has been longstanding. The Applicant himself describes a desire for a residential program, to help him address his complex trauma and addiction needs. Clifford's relationship and support of the Applicant has been available to the Applicant for the duration of his life, and yet he has continued to offend. The Tribunal does not accept that a living arrangement with Clifford mitigates what Dr Kwok has assessed to be in the lower end of the high risk/need category using the LS/CMI tool.
93. Similarly, the Tribunal does not consider that a living arrangement with Brian, who resides with his own family in Queensland, would adequately mitigate the risk of the Applicant reoffending. Brian conceded during cross-examination that during their youth, he used illicit substances with the Applicant. Brian also conceded that he was not fully aware of the Applicant's offending history. The Tribunal does not suggest that Brian would return to any kind of drug or alcohol use with the Applicant, but it does consider that Brian is not fully informed about the very significant challenges that the Applicant has faced, or the full extent of his offending.
94. The Tribunal considers both Clifford and Brian to be genuine in their desires to assist the Applicant to avoid reoffending. There is no evidence before the Tribunal indicating that either Clifford or Brian are particularly equipped to assist with the myriad factors that present

⁶⁴ R1, S2, HB413.

in the Applicant's circumstances, besides providing emotional and logistical support. They are ordinary Australians, who are themselves living positive lives, and whom wish to now step in to assist the Applicant in the difficult circumstances that he faces. The Tribunal's view is that the risks posed by the Applicant's longstanding alcohol and drug abuse, significant criminal offending, and untested sobriety/abstinence, would not be adequately mitigated through either of Clifford or Brian's genuine and kind-hearted offers of assistance to the Applicant.

95. In the Tribunal's view, taking into account all of the evidence available to it, the Applicant represents an elevated risk (in the sense of there being a likelihood) of his again engaging in criminal conduct similar to that he has engaged in previously, which has included serious offending, domestic violence, and offending against police.
96. The risk is sufficiently high in the Tribunal's view that it cannot be safely disregarded, despite the Applicant's recent engagement with therapy and abstinence/sobriety within the prison and immigration detention environments. The gravity of harm to the Australian Community should the Applicant again engage in similar criminal conduct is very serious.
97. In relation to the risk to the Primary Consideration of protection of the Australian community from criminal or other serious conduct, having regard to the serious nature of the Applicant's offending and risk of the Applicant's reoffending, the Tribunal finds that this consideration weighs very strongly in favour of not revoking the Original Decision cancelling the Applicant's visa.

8.2. Family violence committed by the non-citizen

98. Paragraph 8.2 of the Direction requires the Tribunal to consider any family violence engaged in by the applicant, noting the Government has serious concerns about conferring on non-citizens who engage in family violence the privilege of entering or remaining in Australia. The Government's concerns in this regard are proportionate to the seriousness of the family violence engaged in by the non-citizen.
99. This consideration is relevant in circumstances where:
- (a) an applicant has been convicted of an offence, found guilty of an offence, or had charges proven howsoever described, that involve family violence; and/or

- (b) there is information or evidence from independent and authoritative sources indicating that the applicant is, or has been, involved in the perpetration of family violence, and the applicant has been afforded procedural fairness.
100. In considering the seriousness of the family violence engaged in by the applicant the following factors must be considered where relevant:
- (a) the frequency of the applicant conduct and/or whether there is any trend of increasing seriousness;
 - (b) the cumulative effect of repeated acts of family violence;
 - (c) rehabilitation achieved at time of decision since the person's last known act of family violence, including:
 - (i) the extent to which the applicant accepts responsibility for their family violence related conduct;
 - (ii) the extent to which the applicant understands the impact of their behaviour on the abused and witness of that abuse (particularly children);
 - (iii) efforts to address factors which contributed to their conduct; and
 - (d) whether the applicant has re-offended since being formally warned, or since otherwise being made aware by a Court, law enforcement or other authority, about the consequences of further acts of family violence, noting that the absence of a warning should not be considered to be in the applicant's favour. This includes warnings about the applicant's migration status, should the applicant engage in further acts of family violence.
101. The Respondent's submissions in relation to the Applicant's family violence offending and conduct are as follows⁶⁵:

⁶⁵ R1, HB1036 – HB1039 at [48] – [57].

The Minister contends that the applicant has committed acts of family violence against five former partners, being [LC], [JD], [MR], [MJ] and [KK] as outlined in Annexure A.

The Minister acknowledges that the applicant was not convicted for acts of family violence against [LC], [JD] and [MR]. The Minister further notes that some of these acts of family violence were subject to charges that were withdrawn or dismissed by the Court (S3, 74–78, 81).

The Minister contends that police reports are probative evidence and the Tribunal should accept, on the balance of probabilities, that the events occurred as reported.

In Healey and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs [2021] AATA 4309, the Tribunal held (at [72] per SM Nikolic):

In terms of the probative weight to be given to police records, this material routinely forms part of the evidence in mandatory visa cancellation cases. The documents are usually obtained under summons and do not assume the status of evidence until tendered and admitted. Their value is frequently tested during questioning. The Tribunal is not bound by the rules of evidence and although police records may not have been substantiated in court, there is nothing preventing the Tribunal from considering them under the chapeau of ‘other conduct.’ Witnesses must be afforded procedural fairness, however, by having the records put to them for response. It is not accepted that procedural fairness requires the authors of police records to be cross-examined for weight to be placed on these reports.

In CVN17 v Minister for Immigration and Border Protection [2019] FCA 13 at [98]-[100] per Justice Kenny, the Federal Court of Australia held that the Tribunal should treat ‘police service files’ carefully and acknowledge the ‘limits of the material before it that was said to evidence such conduct, including its cogency and reliability’. In QDQY v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs [2021] FCA 1394 at [74] per Justice Anastassiou, the Federal Court expressed the need for care about ‘reaching a view that criminal conduct has occurred, absent a prosecution and conviction’. In Bullmore v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs [2020] FCA 1106

at [69] per Justice Anderson, the Federal Court held that 'there is no automatic, unqualified or universal rule as to when an administrative decision maker would be required to facilitate cross-examination of, or not rely on, material which emanates from a source that has not been tested by way of cross-examination in the Tribunal'.

Further, in Aghbolagh v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs [2023] FCA 43, Justice Burley observed at [36] in relation to paragraph 8.2(2)(b) of Direction 110:

The question of what may be considered to be an independent and authoritative source is left to the decision maker, being a question of evaluation having regard to the nature of the conduct and the circumstances of the particular case.

The Minister accepts that the Tribunal must exercise care when considering the police reports. However, it is open to the Tribunal to take the police reports into account without cross-examining the relevant police officers and while ensuring the applicant is afforded procedural fairness.

The Minister contends that there is frequency to the applicant's offending, noting he has been convicted of family violence offences within the last five years and that he has committed acts of family violence against five different partners; however, there is no trend of increasing seriousness: paragraph 8.2(3)(a) of Direction 110. The Minister contends that repeated offences against victims would have had a cumulative effect: paragraph 8.2(3)(b) of Direction 110.

The Minister contends that the applicant's evidence demonstrates he has accepted limited responsibility for his family violence related conduct and that he has shown limited insight into his behaviour on the abused: paragraph 8.2(3)(c)(i) and (ii) of Direction 110.

The applicant has completed limited rehabilitation in relation to family violence. The evidence indicates that he has completed a 'Domestic Violence Awareness' course (8 hours) (AB, 35) a 'short' anger management course (AB 5, [45]); 31, [88]). The applicant has previously shown little interest in engaging in domestic violence courses while in the community, and is recorded as having 'point blank refused to

attend the EQUIPs DFV program' (S4, 321) and called the service 'a joke' (S4, 305). The applicant otherwise concedes that he has not 'completed a substantial dedicated family-violence program on the supplied evidence (ASFIC 12, [69]). While it is commendable that the applicant has considered a treatment plan if he is released into the community, to date he has made limited effort to address the factors that have contributed to his family violence related conduct: paragraph: 8.2(3)(c)(iii) of Direction 110.

102. The Applicant asks the Tribunal to exercise cautious assessment in considering conduct that has not been subject to fact finding proceedings, separate from the Tribunal's consideration of the acts of family violence that he has been convicted of.
103. The Tribunal has exercised cautious assessment, and explained above that in considering conduct that has not resulted in convictions, the Tribunal has given that conduct less weight than it has given to the Applicant's convictions. The Applicant has been afforded procedural fairness by the Respondent, having been given the opportunity to comment and/or proffer alternative explanations or versions of events in his cross examination.
104. The Applicant was largely unable to recall the conduct of a family violence nature that was put to him. The Applicant suggested to the Tribunal that the circumstances leading to his 12 October 2022 conviction for contravening an AVO involving former partner MJ were a case of his getting caught in the rain with an electric scooter, unaware that MJ was working inside the shop in which he sought shelter. The Tribunal has concerns about this evidence from the Applicant, for the reason that he has, in fact, been convicted of the offence. This, in the Tribunal's view, demonstrates a lack of insight by the Applicant into his family violence offending.
105. The Applicant's convictions for family violence offended involved him kicking and dragging his former partner, hitting his former partner in the forehead with an object, and causing fear. Some of this conduct took place in the home of a former partner – a place where she should have been entitled to feel safe.
106. While the Tribunal has placed less weight on the conduct that has not been tested in court in its evaluative consideration of this factor, the Tribunal nevertheless considers the evidence from the police establishes that the Applicant has also engaged in family violence conduct with partners LC, JD, and MR. The Tribunal accepts that there may be some factual particulars that vary, but the Applicant has been unable to offer any

alternative explanations and simply cannot recall most events that were put to him. In such circumstances, and for the reasons expressed earlier, the Tribunal considers that the police records offer the most reliable, contemporaneous version of factual events available to it.

107. While the Applicant's family violence conduct is relatively recent, the Tribunal accepts that there has been no trend of increasing seriousness. However, the Applicant's conduct has involved physical assault, which is in the Tribunal's view very serious. Whilst deplorable, the Tribunal considers that the Applicant's conduct sits in the middle of the range of family violence conduct.⁶⁶
108. The Applicant's offending has involved numerous contraventions of domestic violence orders, as is set out in his criminal history.⁶⁷ The cumulative effect of the Applicant's offending would have caused significant harm to his victims, given the need for the orders in the first instance, and the Applicant's repeated failure to abide by them.⁶⁸
109. The Applicant asserts that he now understands that family violence is serious, and that he is committed to undertaking further work to ensure that his rehabilitation is complete. Dr Kwok has described the Applicant's insight as "emerging". During his evidence before the Tribunal, the Applicant referred to journalling, and having a positive mindset as strategies that he would use to avoid further offending, but he did not address in any depth the harm caused to his previous partners as a result of his family violence conduct. When the Respondent's solicitor put matters involving his insight to him, the Applicant responded that family violence was wrong, and was able to define family violence, but with no reference to his own offending which he largely could not recall.
110. The Tribunal finds that the Applicant has emerging insight, which means in the Applicant's case that he has a base appreciation for family violence being unlawfully, but that this does not include in the Applicant's case any depth of insight into his own behaviours or the harm they caused to his victims.⁶⁹

⁶⁶ Direction No. 110, paragraph 8.2(3)(a).

⁶⁷ R1, G6, HB143 – HB150.

⁶⁸ Direction No. 110, paragraph 8.2(3)(b).

⁶⁹ Direction No. 110, paragraph 8.2(3)(c)(i) and (ii).

111. The Applicant has completed some very recent, relevant course work, of minimal duration. This includes:
- Domestic Violence Awareness course, 8 contact hours, completed 30 July 2026;⁷⁰
 - Healthy Relationships course, 7 contact hours, completed 1 August 2026;⁷¹
 - Emotional Intelligence course, 5 contact hours, completed 6 August 2026;⁷²
 - A “short anger management course”.⁷³
112. The Tribunal does not have information indicating when the short anger management course was completed by the Applicant but observes that the remaining courses have been completed following the Delegate’s 23 June 2026 decision now under review by the Tribunal.
113. The Applicant’s expressed desire to now take action to address his family violence offending must be seen in the context of its recency, and also in light of his previous refusal to attend the EQUIP DFV program. The Applicant has not yet completed a substantial dedicated family violence program.⁷⁴
114. Ministerial Direction No. 110 makes it clear that family violence is taken very seriously by the Australian Government, and that the Government’s concerns are proportionate to the seriousness of the family violence engaged in by the non-citizen. The Tribunal considers the Applicant’s family violence offending, which involved physical assault, to sit in the middle of the range of family violence conduct. As all family violence is serious, the Tribunal considers that consideration is to be weighed very strongly against revocation of the Original Decision.

8.3. The strength, nature and duration of ties to Australia

115. In accordance with paragraph 8.3 of the Direction the Tribunal must consider any impact of the decision on the applicant’s immediate family members in Australia, where those

⁷⁰ R1, HB36.

⁷¹ R1, HB37.

⁷² R1, HB39.

⁷³ R1, HB6 at [45] and HB32 at [88].

⁷⁴ R1, HB69 at [69].

family members are Australian citizens, Australian permanent residents, or people who have a right to remain in Australia indefinitely.

116. Where consideration is being given to whether to revoke the mandatory cancellation of the applicant's visa, the Tribunal must also consider the strength, nature and duration of any other ties that the applicant has to the Australian community. In doing so, the Tribunal must have regard to:
- (a) how long the applicant has resided in Australia, including whether the applicant arrived as a young child, noting that less weight should be given where the applicant began offending soon after arriving in Australia, and more weight should be given to time the applicant has spent contributing positively to the Australian community
 - (b) the strength, duration and nature of any family or social links with Australian citizens, Australian permanent residents and/or people who have an indefinite right to remain in Australia.
117. The Applicant arrived in Australia as a 7-month-old infant, and with the exception of a brief period living in England with his grandmother, has lived in Australia since his arrival. For all intents and purposes, Australia has been the Applicant's home – it is where he grew up, where his brother Clifford, minor daughter, and social connections (friends Brian Coggin⁷⁵ and Ben Robertson⁷⁶) live. The Applicant's parents are buried in Australia.
118. When the Applicant has worked, it has been in Australia. The Applicant's schooling has been in Australia. His experience of life, both positive and negative, has been in Australia.
119. The Applicant's first conviction was in April of 2000, when he was 29 years old. As such, his offending did not begin shortly after his arrival to Australia.⁷⁷
120. There is little evidence available to the Tribunal of the Applicant's positive contributions to the Australian community. In his evidence, the Applicant gave evidence that he has cumulatively worked for between 8 to 10 years of his adult life, during which he says he

⁷⁵ R1, HB50 – HB51.

⁷⁶ R1, HB49.

⁷⁷ Direction No. 110 paragraph 8.3(2)(a)(i).

has paid tax. Although the Tribunal recognises that 8 to 10 years of work total for a 56-year old man is limited, the Tribunal treats these years as a positive contribution by the Applicant. This is for the reason that the effort by the Applicant during these 8 to 10 years would have had a positive impact on the public in reducing any welfare needs, and in contributing to the public coffers through payment of tax.

121. The Applicant also gave evidence, both to the Tribunal and in a written statement, that he called 000 when he found his former partner KK unresponsive. The Applicant submits that he administered CPR with the assistance of the 000 operator before emergency assistance arrived, and this may have prevented KK's death from what he believed to be a heroin dose. While the Tribunal does consider this to be a positive contribution, the Tribunal views this in a context where the Applicant was obligated to act in a morally responsible way, and that his actions in calling 000 were what any responsible person would do. Nevertheless, the Tribunal accepts that in calling 000, the Applicant has acted in a morally responsible way and this should be seen as a positive contribution.
122. There is also some evidence before the Tribunal suggesting that the Applicant has assisted elderly neighbours from time-to-time with household tasks.⁷⁸ While this is positive, and the Tribunal treats it as such, the Tribunal does not consider assisting elderly neighbours from time-to-time to be particularly significant in the context of a life of 56-years. The Tribunal's view of the net positive contributions by the Applicant to Australia is that they weigh only very slightly in favour of revocation of the Original Decision, in the overall consideration of this factor.⁷⁹
123. The Applicant desires to have a relationship with his 10-year-old Australian daughter. Their relationship was interrupted when he was imprisoned.⁸⁰ The evidence before the Tribunal from the Applicant and from his brother Clifford is that the Applicant's removal would have a significant impact on them both. Clifford says that the Applicant is his last remaining close immediate family member in Australia. Clifford presently has no contact with the Applicant's 10-year-old daughter.⁸¹

⁷⁸ R1, G38, HB306.

⁷⁹ Direction No. 110 paragraph 8.3(2)(ii).

⁸⁰ R1, HB6 – HB7 at [51] – [58].

⁸¹ R1, HB15 at [40].

124. The Tribunal accepts that the Applicant's removal from Australia would have a significant and lasting impact on his brother Clifford, in particular. The Tribunal accepts that the Applicant has social ties in Australia that would be impacted by his removal.⁸² While the Tribunal considers the evidence before it to support a finding that his ties to Clifford are very strong, the Tribunal does not consider the evidence of the strength and nature of the Applicant's other relationships to be particularly strong. The Tribunal recognises that the social relationships with Brian Coggin and Ben Robertson have been enduring (40-years in the case of Brian Coggin), but in the case of Brian Coggin, the Applicant has resided in New South Wales and Brian Coggin in Queensland during their adult years and therefore been separated by some distance.
125. The Tribunal has considered the strength, nature and duration of the Applicant's relationship with his minor daughter, who is an Australian citizen. The Applicant's daughter is presently in the custody of her maternal grandmother and the NSW Minister for Families and Communities. The Applicant has been unable, for practical reasons relating to his incarceration, to maintain a strong connection to his daughter during his period of incarceration and immigration detention. Prior to entering prison, the Applicant had some supervised visits with his daughter after paternity was established
126. Weighing up the evidence relating to this consideration, the Applicant has resided in Australia nearly all of his life, did not commence offending until he resided in Australia for a significant period, but has made very limited positive contributions to the Australian Community. He has a very strong and enduring connection to his brother, a desire to reinvigorate his relationship with his 10-year-old daughter, and two longstanding social connections.
127. Overall, in considering the strength, duration and nature of the Applicant's ties to Australia, the Tribunal considers that they weigh strongly in favour of revocation of the Original Decision.

8.4. Best interests of minor children in Australia affected by the decision

128. In accordance with paragraph 8.4 of the Direction the Tribunal must determine whether non-revocation under s 501CA is, or is not, in the best interests of a child affected by the

⁸² Direction No. 110, paragraph 8.3(2)(b).

decision. This consideration applies only if the child is under 18 years old at the time the Tribunal's decision is expected to be made. If there are two or more relevant children, the best interests of each child should be given individual consideration to the extent that their interests may differ.

129. The Applicant has one daughter, who is presently 10-years-old.⁸³
130. In considering the best interests of the child, the Tribunal must consider the following, where relevant:
 - (a) the nature and duration of the relationship between the child and the applicant. Less weight should generally be given where the relationship is non-parental, and/or there is no existing relationship and/or there have been long periods of absence, or limited meaningful contact (including whether an existing Court order restricts contact)
 - (b) the extent to which the applicant is likely to play a positive parental role in the future, taking into account the length of time until the child turns 18, and including any Court orders relating to parental access and care arrangements
 - (c) the impact of the applicant's prior conduct, and any likely future conduct, and whether that conduct has, or will have a negative impact on the child
 - (d) the likely effect that any separation from the applicant would have on the child, taking into account the child's or applicant's ability to maintain contact in other ways
 - (e) whether there are other persons who already fulfil a parental role in relation to the child
 - (f) any known views of the child (with those views being given due weight in accordance with the age and maturity of the child)

⁸³ Direction No. 110, paragraph 8.4(2).

- (g) evidence that the child has been, or is at risk of being, subject to, or exposed to, family violence perpetrated by the applicant, or has otherwise been abused or neglected by the applicant in any way, whether physically, sexually or mentally
 - (h) evidence that the child has suffered or experienced any physical or emotional trauma arising from the applicant's conduct.
131. The Applicant does not, as mentioned earlier, have legal parental responsibility for his daughter, who entered out-of-home care in 2021. Prior to entering prison, he did have some supervised visits with his daughter. These visits were supervised by Life Without Barriers, who have primary case management responsibilities for the Applicant. The Tribunal accepts the point made by the Applicant's Counsel that the six-visit per year frequency contained in the Applicant's daughter's care plan is a recommendation, and not a court ordered maximum, and has viewed it in this context.
132. Life Without Barriers has provided a letter dated 14 July 2026 to the Applicant's representatives, which is before the Tribunal and says the following:
- [Child's] case manager has spoken to [child] and she has agreed to us telling you that she liked family time with her dad when she was younger, and she does love him very much. [Child] has recently chosen not to have family time with her dad but does miss him and would like to be able to see him again in future, just not now.⁸⁴*
133. The Applicant told the Tribunal that it had been difficult for his daughter to visit, as it involved a long car ride, and the environment of prison and immigration detention was not ideal for visits. He spoke with love about his daughter, and their time together. The last time the Applicant saw his daughter was more than 2-years ago. The following exchange took place at the hearing between the Respondent's solicitor and the Applicant, about his relationship with his daughter:

Respondent's solicitor: *Just coming back to my question, do you have a relationship with her at prison?*

Applicant: *Yeah, not since I've been in custody. She hasn't wanted to come to prison or detention centre to see me. But she never missed a visit before and she*

⁸⁴ R1, HB46.

always loved our times before. We see her at temp in bowling and go bowling and spend time in time zone and hang out, eat and so forth and then see her up at Stockton Park riding the scooter, her bikes or doing other activities.

Respondent's solicitor: *So what role have you played in her life previously?*

Applicant: *Well, the first part of her life was unfortunate because the mother, since she was forced into rehab, didn't want a relationship with me anymore. And she put no father down on the birth certificate. So the first four or five years I didn't really have access to her. It was only a week or two before she lost custody of my daughter, before her grandmother took her, that she rang me up and and told me I'm losing my daughter. Come to the court case. And yeah, from that court case she was allowed X amount of visits, which she doesn't show up to half the time. And I was given the same visit authority as what she was. But then I had to find out first if she was my daughter through a DNA test, which I asked for and applied for. And I guess I mean, they let her know that she had a father when she was shocked, sort of in just disbelief. But anyway, so once she she became aware and once she lost custody, that's when my relationship started with her.*

Respondent's solicitor: *And how old was she at the time when this happened?*

Applicant: *About 6 years old. And yeah, the first, first visits were a little bit I think strange for her because she didn't know she had a father and she was a standoffish, but she was excited at the same time that to find out that she had a father. And then from there, it became more loving, more exciting and happy. She was. She's always happy and excited and happy to see me. Yeah. She's been very affectionate and very, very loving. And she's a beautiful kid.*

Respondent's solicitor: *Sorry to ask you this, Mr Robb. How many times have you seen your daughter around?*

Applicant: *Very few times before the age of 5, probably a couple of handfuls, 10 times or something before that, because it was just rare. Very occasional then, but from from, from the time of the visits, every time that I was allowed to with the visits between 4 and 6 * 7 * a year, every year since.*

Respondent's solicitor: *Do you have electronic communication with her now?*

Applicant: *No, they haven't allowed electronic communication. She she doesn't have a mobile phone. Yeah, no, I would. I would have loved that I've asked for that, but there's been no arrangements made for that. It's always contact visits.*

Respondent's solicitor: *So, so far, anyway, she's come to see you in prison?*

Applicant: She she was that it was planned that she was going to come, but the day before I think she got cold feet. Firstly, it's a long drive. From there she'd be stuck in a car for four hours, which is not much fun for any kid. But I think the environment was possibly scary for her because they've not wanted to. She's not aware of my circumstances and they don't don't want to upset her or confuse her or complicate her mental health by by telling her the situation. I mean, and it'd be difficult to have contact without her finding out my situation.

Respondent's solicitor: *So when's the last time you've had contact with her?*

Applicant: *A couple of weeks before I was incarcerated.*

- (i) the nature and duration of the relationship between the child and the applicant. Less weight should generally be given where the relationship is non-parental, and/or there is no existing relationship and/or there have been long periods of absence, or limited meaningful contact (including whether an existing Court order restricts contact)
- 134. The Tribunal finds that the relationship between the Applicant and his daughter has been limited, both through social circumstances and his incarceration. The Applicant does not have legal responsibility and last had contact with his daughter 2-years ago.
- 135. When the Applicant has been able to have contact, it has been positive. While the evidence from Life Without Barriers indicates that the Applicant's daughter does not want to see him right now, she would like this possibility to remain open to her in future. The Applicant's evidence that his visits have been positive is supported by the evidence of his brother Clifford, as well as that of Life Without Barriers.
- 136. The Tribunal accepts that the physical separation brought about by visa cancellation and its consequences will reduce the opportunity the Applicant has to build a positive relationship with his daughter, and that this will be more challenging by electronic means than in person.

137. Considering the evidence before it as it relates to the Applicant's daughter's best interests, the Tribunal finds that it weighs moderately in favour of revocation of the Original Decision.

8.5. Expectations of the Australian community

138. Paragraph 8.5(1) of the Direction states the Australian community expects applicants to obey Australian laws while in Australia. Where an applicant has engaged in serious conduct in breach of this expectation, or where there is an unacceptable risk that they may do so, the Australian community, as a norm, expects the Government to not allow such an applicant to enter or remain in Australia.
139. Paragraph 8.5(2) of the Direction directs that in addition, non-revocation of the mandatory cancellation of a visa, may be appropriate simply because the nature of the character concern or offences is such that the Australian community would expect that the person should not be granted or continue to hold a visa. In particular, the Australian community expects that the Australian Government can and should refuse entry to non-citizens, or cancel their visas, if they raise serious character concerns through conduct, in Australia or elsewhere, of the following kind:
- (a) acts of family violence
 - (b) causing a person to enter into, or being party to (other than being a victim of), a forced marriage
 - (c) commission of serious crimes against women, children or other vulnerable members of the community such as the elderly or disabled; in this context, 'serious crimes' include crimes of a violent or sexual nature, as well as other serious crimes against the elderly or other vulnerable persons in the form of fraud, extortion, financial abuse/material exploitation or neglect
 - (d) commission of crimes against government representatives or officials due to the position they hold, or in the performance of their duties
 - (e) involvement or reasonably suspected involvement in human trafficking or people smuggling, or in crimes that are of serious international concern including, but not limited to, war crimes, crimes against humanity and slavery
 - (f) worker exploitation.

140. The expectations of the Australian community apply regardless of whether the applicant poses a measurable risk of causing physical harm to the Australian community.
141. The Direction provides that this consideration is about the expectations of the Australian community as a whole and in this respect, the Tribunal should proceed on the basis of the Government's views as articulated above, without independently assessing the community's expectations in the particular case.
142. The Applicant says the following in relation to the expectations of the Australian Community⁸⁵:

The Applicant accepts that, under Direction No. 110 as described by the Respondent, community expectations weigh against revocation because of his serious offending and family violence history. He does not ask the Tribunal to substitute an individualised opinion of community sentiment for the norm stated in the Direction. (Respondent's SFIC, pp 16-17 [71]-[74]; G5, p 44 [102]-[106].)

143. The Tribunal finds that the Applicant's offending has caused harm to, and placed the Australian Community, at risk. The Tribunal finds that there is a very real risk that, if released into the community, the Applicant would engage in further offending.
144. The Tribunal finds that the Australian community, as a norm, would expect the Government to not allow a non-citizen that has engaged in serious offending, including family violence, and posed a very real risk of reoffending, to remain in Australia.
145. The Tribunal finds that the expectations of the Australian Community weigh very strongly against revocation of the Original Decision.

Other considerations under the Direction

146. Paragraph 9 of the Direction relevantly provides that in making a decision under s 501CA(4) the considerations below must also be taken into account, where relevant, (but are not limited to):
- (a) legal consequences of the decision;

⁸⁵ R1, HB85 at [48] – [49].

- (b) extent of impediments if removed;
- (c) impact on Australian business interests.

9.1. Legal consequences of the decision under s 501CA(4)

147. Paragraph 9.1(1) of the Direction requires the Tribunal to be mindful that unlawful non-citizens are, in accordance with section 198 of the Act, liable to removal from Australia as soon as reasonably practicable in the circumstances specified in that section, and in the meantime, detention under section 189, noting also that section 197C(1) of the Act provides that for the purposes of section 198, it is irrelevant whether Australia has non-refoulement obligations in respect of an unlawful non-citizen. Paragraph 9.1(2) sets out what a non-refoulement obligation is. Paragraph 9.1(3) notes that international non-refoulement obligations will generally not be relevant where the person concerned does not raise such obligations for consideration and the circumstances do not suggest a non-refoulement claim.
148. The Applicant does not ask the Tribunal to make findings about international protection obligations and does not ask the Tribunal to rely upon an existing protection finding.⁸⁶
149. The Tribunal accepts that the removal, potential indefinite exclusion and visa limitations which result from a decision not to revoke a cancellation decision are an intended consequence of the operation of the Act, consequences which underpin and are subsumed by the relevant primary and other considerations. The Tribunal considers this consideration weighs neutrally in the circumstances of the Applicant's case.

9.2. Extent of impediments if removed

150. Paragraph 9.2 of the Direction provides that the Tribunal must consider the extent of any impediments that the applicant may face if removed from Australia to their home country, in establishing themselves and maintaining basic living standards (in the context of what is generally available to other citizens of that country) taking into account:
- (a) the applicant's age and health;
 - (b) whether there are substantial language and cultural barriers; and

⁸⁶ R1, HB73 at [92].

(c) any social, medical and/or economic support available to them in that country.

151. The Applicant's submissions address the issues that the Applicant would face if removed to the United States, the United Kingdom or Canada:⁸⁷

The Applicant is 55, has longstanding mental health vulnerabilities, a history of substance dependence and physical health concerns, and has been institutionalised for a substantial period. He would need to re-establish accommodation, treatment, income and support in a country in which he has no settled adult life.

Language is not a major barrier in any of the three countries. The impediment is practical and social: absence of an established home, weak or non-existent support networks, interruption to treatment, loss of Clifford's day-to-day support, and separation from [Child]. The fact that the countries are English-speaking and have public or community services does not reproduce the specific network available to the Applicant in Australia.

In the United States, the Applicant has never lived and has no family network on which he can rely. In the United Kingdom, he lived for only about ten months in his twenties and has no current home, employment or close support. In Canada, he has two stepbrothers but no relationship with them capable of providing accommodation or practical support.

Clifford's evidence makes the contrast especially clear: in Australia, the Applicant has a specific offer of accommodation, transport, help with appointments and treatment, assistance with practical reintegration and ongoing emotional support. Clifford says he could not provide equivalent daily support overseas and lacks the financial capacity to establish Stuart in another country.

The impediments consideration should therefore continue to receive significant weight in favour of revocation. It is not merely hardship arising from preference to

⁸⁷ R1, HB73 – HB74 at [93] – [99].

live in Australia; it concerns the practical conditions most relevant to the Applicant's capacity to maintain treatment, sobriety and stability after release.

152. In further submissions, the Applicant says the following:⁸⁸

The Respondent now expressly accepts that the Applicant has no family or social connections in the United States, Canada or the United Kingdom and that he would face practical, emotional and financial hardship if removed. The availability of general services to citizens of those countries does not remove the accepted absence of an established home, support network and continuity of care. (Respondent's SFIC, pp 17-18 [81]-[86].)

The current medical material strengthens the impediments evidence. Detention health records document depression and PTSD associated with childhood sexual abuse, deterioration in mental health in detention, psychiatric medication, ongoing counselling and psychiatric review. They also record MRI findings described to the Applicant as an empty sella and a communicating-segment left internal carotid artery aneurysm, with further endocrine or neurological follow-up contemplated. (S6, pp 575, 584-585, 590-591.)

The June 2026 psychiatric record is particularly serious. It records deterioration in mood in detention, distress about separation from his daughter and the detention environment, and a statement in the context of feared removal to the United States that he would be able to obtain a gun to kill himself. The following page records reasonable insight and judgment and a treatment plan including increased quetiapine and psychiatric review. This material should be treated clinically and cautiously; its relevance is that the psychological consequences of removal are concrete, not merely asserted in submissions. (S6, pp 584-585.)

Clifford states that he could not provide the same day-to-day assistance if the Applicant were overseas and does not have the financial resources to establish and maintain him in another country. (Statement of Clifford Robb, p 6 [41]-[46].)

⁸⁸ R1, HB85 – HB86 at [51] – [56].

The Applicant has never established a settled life in the United States or Canada and lived in England only briefly in his twenties. He has no present home, employment or reliable day-to-day support in any of the three countries. By contrast, his Australian plan includes identified rehabilitation options and confirmed family accommodation if residential admission is not immediately available. (Statement of Stuart Robb, pp 1-2, 8 [2]-[3], [11], [77]-[84]; Statement of Clifford Robb, pp 4-5 [31]-[35]; G30, p 173.)

153. The Tribunal considers that the Applicant's submissions accurately set out the challenges that he would face if removed from Australia to the United States, the United Kingdom or Canada.
154. The Tribunal finds that the Applicant would not face language or cultural barriers in any of the United States, United Kingdom or Canada.⁸⁹
155. The Tribunal finds that the social, medical or economic support available to the Applicant in the United States, United Kingdom or Canada will be that which is ordinarily available to citizens of these countries. The Tribunal finds that this support may not be of the same standard as that available to him in Australia.⁹⁰
156. The Applicant gave evidence that his unfortunate experience of childhood sexual abuse, which was a factor that contributed to his drug and alcohol use, and therefore to his offending, has occurred in Australia. The Applicant has disclosed this abuse to the National Redress Scheme.⁹¹ The Tribunal accepts that it may be more challenging for the Applicant to obtain support in relation to this past abuse in the United States, United Kingdom or Canada. The Tribunal gives the Applicant's age and health (physical and mental) significant weight as a factor in favour of revocation, in its consideration of this factor.⁹²
157. The Tribunal accepts that the absence of supportive family, the Applicant's longstanding drug and alcohol addiction issues, psychological/mental health psychiatric issues, challenges with maintaining employment, periods in institutional settings, and practical

⁸⁹ Direction No. 110, paragraph 9.2(1)(b).

⁹⁰ Direction No. 110, paragraph 9.2(1)(c).

⁹¹ R1, HB22 – HB23 at [35].

⁹² Direction No. 110, paragraph 9.2(1)(a).

challenges posed by his criminal record in securing employment and housing, are all very significant challenges for the Applicant. The Tribunal accepts that the Applicant will lose on the ground assistance from his brother Clifford, and that it will be more difficult for Clifford to assist the Applicant if he is removed from Australia.

158. The Tribunal considers that the impediments the Applicant will face if removed from Australia will be crushing. The Tribunal weighs the very real, significant, impediments that the Applicant may face if removed from Australia to the United States, United Kingdom or Canada, in establishing himself and maintaining basic living standards (in the context of what is generally available to other citizens of that country), as a factor that weighs very strongly in favour of revocation of the Original Decision.

9.3. Impact on Australian business interests

159. Paragraph 9.3 of the Direction provides that the Tribunal must consider any impact on Australian business interests if the applicant is not allowed to enter or remain in Australia, noting that an employment link would generally only be given weight where the decision under section 501CA would significantly compromise the delivery of a major project, or delivery of an important service in Australia.
160. In relation to Australian business interests, the Applicant submits that the Tribunal should consider this factor neutrally, on the basis that although the Applicant has a work history and would like to return to lawful employment, the evidence before the Tribunal does not fall within the purview of this consideration.⁹³
161. The Tribunal agrees with the Applicant's consideration and weighs Australian business interests as a neutral consideration, neither in favour of nor against, revocation of the Original Decision.

CONCLUSION

162. The Applicant does not pass the character test under s 501(6) of the Migration Act. The Tribunal has, therefore, considered whether there is 'another reason' why the Original

⁹³ R1, HB74 at [100] – [101].

Decision cancelling the Applicant's visa should be revoked, having regard to the primary and other considerations as set out in Ministerial Direction No. 110.

163. Paragraph 7 of Ministerial Direction No. 110 sets out the way in which the relevant considerations are to be taken into account and weighed by the Tribunal.
164. There has been extensive judicial consideration on how the exercise of balancing and weighing the considerations contained in the relevant Ministerial Directions is to be undertaken (considering a number of Ministerial Directions preceding Ministerial Direction No. 110). Relevantly, the Full Court of the Federal Court considered the operation of Ministerial Direction No. 90 in *CRNL v Minister for Immigration, Citizenship and Multicultural Affairs* [2023] FCAFC 138. The Court's observations apply to Ministerial Direction No. 110. The Court found that the Tribunal must weigh the various primary and other relevant considerations outlined in the Direction (in this case Ministerial Direction No. 110) against each other and undertake an evaluation of whether there was 'another reason' why the Cancellation Decision should be revoked.
165. In determining the weight to be applied to each consideration, the Tribunal has considered all the primary and other considerations and weighed them in light of the evidence and findings and according to the guidance provided by Ministerial Direction No. 110. In so doing, the Tribunal has ascribed weight to each of the primary and other considerations under Ministerial Direction No. 110 and explained the basis upon which the Tribunal has assessed the weight to be given to each of those considerations. The Tribunal has gone on to compare and balance each of these considerations to determine whether the Original Decision cancelling the Applicant's visa should be revoked.
166. The Tribunal has found that the protection of the Australian community consideration weighs very strongly against revocation of the Original Decision in the Applicant's circumstances.
167. The Tribunal has found that the family violence consideration weighs very strongly against revocation of the Original Decision in the Applicant's circumstances.

168. The Tribunal has found that the strength, nature, and duration of the Applicant's ties to Australia consideration weighs strongly against revocation of the Original Decision in the Applicant's circumstances.
169. The Tribunal has found that the best interests of minor children consideration weighs moderately in favour of revocation of the Original Decision in the circumstances of the Applicant's case.
170. The Tribunal has found that the expectations of the Australian community consideration weighs very strongly against revocation of the Original Decision in the circumstances of the Applicant's case.
171. In relation to the 'other considerations' identified in Ministerial Direction No. 110, for the reasons given above, the Tribunal finds that:
- the legal consequences of the decision consideration weighs neutrally;
 - the extent of impediments if removed consideration weighs very strongly in favour of revocation of the Original Decision;
 - the impact on Australian business interests consideration weighs neutrally.
172. Having weighed the considerations, the Tribunal finds that:
- The first, second and fifth primary considerations each weigh very strongly against revocation of the Original Decision;
 - The third primary consideration weighs strongly in favour of revocation of the Original Decision.
 - The fourth primary consideration weighs moderately in favour of revocation of the Original Decision
 - The extent of impediments if removed consideration weighs very strongly in favour of revocation of the Original Decision.

- The legal consequences of the decision consideration and the impact on Australian business interests consideration each weigh neutrally.
173. Paragraph 7(2) of Direction No. 110 states that primary considerations should generally be given greater weight than the other considerations. Further, it states that primary consideration 8.1 (protection of the Australian community) is generally to be given greater weight than other primary considerations.
174. Having weighed the primary and other considerations against each other, the Tribunal is satisfied that appropriate weight has been assigned to each of them.
175. In the Applicant's circumstances, the Tribunal is satisfied that very significant weight should be placed on the first, second and fifth primary considerations, those being:
- Protection of the Australian community from criminal or other serious conduct;
 - Whether the conduct engaged in constituted family violence; and
 - The expectations of the Australian community that the Australian Government will cancel the visas of those persons who do not obey Australian laws.
176. Having weighed the various considerations, those weighing against revocation of the Original Decision are greater in number to those considerations weighing in favour of revocation of the Original Decision cancelling the Applicant's visa.
177. The Tribunal is satisfied that the very significant weight placed on the first, second and fifth primary considerations gives the result that they carry, overall, far greater weight than any or all of the considerations weighing in the favour of revocation.
178. In conclusion, having regard to all of the primary and other considerations in Ministerial Direction No. 110, the Tribunal is not satisfied that there is 'another reason' why the Original Decision cancelling the Applicant's visa should be revoked.
179. The Tribunal is not satisfied the applicant passes the character test or that there is another reason why the original decision should be revoked under s 501CA(4).

180. Given the above findings, the appropriate course is to affirm the decision under review.

DECISION

181. For the reasons given above, the Tribunal's decision dated 15 September 2026 was:

- The Tribunal affirms the decision under review.

Date(s) of hearing: 8 and 9 September 2026

Date final submissions received: 4 September 2026

Counsel for the Applicant: Dr Jason Donnelly, Latham Chambers

Solicitors for the Respondent: Mr Liam Dennis, Mills Oakley